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CLERK OF COURT - CIRCUIT

IN THE CIRCUIT COURT FOR SHELBY COUNTY, TENNESSEE
AT MEMPHIS

MIA DAVIS, as Administrator Ad Litem of the Estate of MONETTA DAVIS, deceased,	)	No. CT-2954-26
	)	Div. I
Plaintiff,	)	**JURY DEMANDED**
v.	)	**HEARING REQUESTED**
NIKHIL GOPAL, M.D.; OKSANA DIDYUK, M.D.; and METHODIST HEALTHCARE - MEMPHIS HOSPITALS d/b/a METHODIST UNIVERSITY HOSPITAL,	)	
Defendants.	)	

PLAINTIFF'S MOTION FOR ENTRY OF AN ORDER TO SHOW CAUSE

Plaintiff Mia Davis, as Administrator Ad Litem of the Estate of Monetta S. Davis, moves the Court to enter the attached Order to Show Cause under Rule 11.03(1)(b) of the Tennessee Rules of Civil Procedure, the Court's inherent authority, and Tenn. Code Ann. § 16-1-102.

The motion is directed to the attorneys who signed and are listed on two of the three pending motions to dismiss, Alan S. Bean, Michael T. Scivley, and Kalen S. Early of Starnes Davis Florie LLP, counsel for Defendant Oksana Didyuk, M.D., and Buckner Wellford, James McColgan, and Alex Hall of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., counsel for Defendant Methodist Healthcare - Memphis Hospitals, and to their firms. It seeks no relief against the actual parties, Dr. Didyuk or Methodist Healthcare, as Rule 11.03(2)(a) does not permit monetary sanctions against represented parties for the violations described here.

I. INTRODUCTION

The very first defense filings in this wrongful-death matter ask the Court to dismiss the case with prejudice **on fabricated authority**. In lieu of answering the Complaint, Dr. Didyuk, Dr. Gopal, and Methodist Healthcare filed Motions to Dismiss asserting purported deficiencies in Plaintiff's pre-suit notice. All three motions are frivolous, both factually and legally, and are the subject of forthcoming Rule 11 notices. But two of the motions go further: they are saturated with invented statutes, made-up appellate quotes, fabricated standards, and rank mischaracterizations of holdings; all of which bear the unmistakable fingerprint of unsupervised, generative AI.

Both the Didyuk Motion to Dismiss and the Methodist Motion to Dismiss request money under "Tenn. Code Ann. § 20-5-119(c)." **There is no such statute**. There isn't even such a section. The chapter ends at § 20-5-118, which itself is a law regarding automobile liability insurance carriers that has no discernible relevance to this health care liability case.

Methodist's motion rests its only substantive ground on "T.C.A. § 29-26-121 (a)(1)(e)," **a subdivision that does not exis**t. There is also no preceding (a)(1)(a), (b), (c), or (d).

The Didyuk memorandum relies on a 46-word quotation attributed to the Supreme Court of Tennessee in *Martin v. Rolling Hills Hospital, LLC*, "quoting" *Stevens v. Hickman Community Health Care Services, Inc.* for its central argument. **Neither opinion contains the invented passage**.

The Methodist memorandum instructs the Court that the plaintiff must overcome "the presumption of prejudice set forth above," citing page 335 of *Martin*. **Page 335 contains no such statement, nor does the larger *Martin* opinion**, which granted

review on "whether or not the Court should consider the adoption of a rebuttable presumption of prejudice," adopted none and to the contrary holds that prejudice "is not a separate and independent analytical element."

The Didyuk memorandum quotes *Stevens* at 555, as stating: "the noncompliance frustrated or interfered with the purposes of Section 121 or deprived the defendant of a benefit Section 121 confers." (Didyuk Mem. 6.) **There is no such passage in *Stevens*.**

The Didyuk memorandum states that "the Tennessee Supreme Court has expressly rejected the argument that a defendant must inform a plaintiff of noncompliance," and cites "*Id*. at 559." (Didyuk Mem. 9.) The antecedent of that "*Id*." is *Martin*. ***Martin* has no page 559**. Its opinion runs from page 322 through 347 in the South Western Reporter, Third Series.

The Methodist memorandum builds a composite, mash-up quotation, passes it off as authentic, and attributes it to *Stevens*:

> "'non-substantive errors and omissions' and [a] plaintiff's less-than-perfect compliance' with the statute will 'not derail a healthcare liability claim' if the medical authorization provided is 'sufficient to enable defendants to obtain and review a plaintiff's relevant medical chart.' *Id*. at 555."
> (Methodist Mem. 5.)

***Stevens* contains no such passage as quoted.**

The Didyuk memorandum attributes to *J.A.C. v. Methodist Healthcare Memphis Hospitals*, 542 S.W.3d 502 (Tenn. Ct. App. 2016), **the facts of a different case**: it claims that "the Court found the plaintiff's HIPAA authorization was deficient because she intentionally left portions of the authorization form blank and anticipated that the defendant medical providers would fill it in." (Didyuk Mem. 9.) That plaintiff is the plaintiff in *Roberts v. Prill,* No. E2013-02202-COA-R3-CV, 2014 WL 2921930 (Tenn. Ct. App. June 26, 2014).

The two firms' filings share identical fabricated and altered authority. A sentence about prejudice, misattributed to *Lawson v. Knoxville Dermatology Group, P.C.*, appears word for word in both memoranda, served one day apart. Likewise, **both firms delete the same operative passage, "to enable defendants," from the same Supreme Court quotation**, without an ellipsis, with identical brackets and an identical citation string. Continuing the blind adoption of one another's fabrications, a third defendant's memorandum, served three days after Methodist's, reproduces a passage from the Didyuk memorandum character for character, misattributions included, and substitutes a party found in Methodist's memorandum with the name "Dr. Schorge," a real Memphis physician, but one that has absolutely no connection to this case in any way. **In short, the motions have every appearance of having been drafted by unsupervised, generative Artificial Intelligence and then copied and pasted from one firm to the next**.

Any one of these errors, in isolation, might be unremarkable. Where Didyuk identified a case as "AMIBU" instead of "AMISUB" could be a slipped keystroke. Where Methodist called the plaintiff "Shaw for Estate of Tuttle" instead of the correct "Estate of John Suttle" could be a momentary lapse of concentration. Where both firms repeatedly change the tense of operative verbs in quoted authority, "owe" for "owed", for example, might be a misread. The problem is not any one error. It is the population of errors: dozens of instances that sort into classes no combination of slipped keys can produce, that repeat identically across two firms' filings, and that slant the law, without exception, in Defendants' favor.

The specific pattern at work here matches the documented behavior of generative artificial intelligence systems. A large language model does not copy text from sources. It

generates text one word at a time, selecting each next word by statistical probability given the words around it. Substitution is therefore not a malfunction of these systems; it is how they fundamentally operate *by design*.

When AI is asked to reproduce a quotation, the model reconstructs it, and the reconstruction swaps synonyms ("that" for "which"), regularizes grammar ("owe" for "owed"), strengthens qualifiers ("should" becomes "will," an illustration becomes a rule), and fudges on exactly the numbers and identifiers that carry precision in the legal world: volume numbers, docket digits, subsection letters, pin pages, and party names, each pulled toward a statistically similar neighbor.

That is how a real case comes to bear another real case's reporter citation. That is how "each other provider being sent a notice" becomes simply "each other," how "sufficient to enable defendants to obtain and review" becomes truncated to "sufficient to obtain and review," and how a statutory chapter that ends at section 20-5-118 acquires a section 20-5-119. And because the system's output is designed to look and read correct; every one of these fabrications is presented in confident, grammatically-proper, formatted prose.

That is the difference between honest human mistake and the likely-AI generated content filed by these Defendants. Human error occurs randomly: it misspells words, garbles punctuation marks, and it works against the drafter's interest as often as it does for it. The errors in Defendants' filings do none of those things. They present error as fact, in beautifully worded language, and always sycophantically tilted toward the party who prompted the AI.

And this is what makes unsupervised AI drafting particularly dangerous in the legal setting. **Law derives meaning at the level of the single word, letter, and**

digit: the difference between "owed" and "owe" is the difference between what one court held about the singular parties before it and a standing rule for every case after it, and the difference between 467 S.W.3d 911 and 523 S.W.3d 619 is the difference between one case and another.

A tool, generative AI, whose default mode is substitution fails at precisely the places where the law derives meaning, and it defeats the ordinary safeguard against human error, which is reading for sense, because every substituted word does, in fact, make sense.

The only review that catches AI-drafting error is the one that Rule 11.02 has always required: actually reading the cited authority and verifying it. The Didyuk and Methodist filings are what occurs when that review does not happen. And how these papers were in fact researched, drafted, reviewed, and put in front of this Court is a question only their signers can answer, under oath.

Under Rule 11.03(1)(b), the Court may enter an order describing the specific conduct that appears to violate Rule 11.02 and direct the signers of these motions to show cause. The attached proposed order does that and no more: it recites the verified instances with particularity, directs sworn written responses within 21 days, requires disclosure of how these filings were researched and drafted, and sets a hearing. It presumes nothing, adjudicates nothing, reserves all questions of sanction, and gives Defense Counsel every opportunity to explain themselves. Plaintiff asks the Court to enter that order.

II. FACTUAL AND PROCEDURAL BACKGROUND

Three motions to dismiss are pending, each under Rule 12.02(6), each asserting noncompliance with the pre-suit notice statute, Tenn. Code Ann. § 29-26-121, and each seeks dismissal with prejudice.

Defendant Oksana Didyuk, M.D. filed a three-page motion and a thirteen-page memorandum on July 16, 2026. The signature blocks list Alan Bean, Michael Scivley, and Kalen Early of Starnes Davis Florie LLP, with Mr. Early having signed the pleadings. Both filings request costs under the nonexistent "Tenn. Code Ann. § 20-5-119(c)."

Defendant Methodist Healthcare filed a three-page motion and a ten-page memorandum on July 17, 2026. The signature blocks list Buckner Wellford, James McColgan, and Alex Hall of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., with Mr. Wellford having signed the filings. The motion itself states that it is based on the nonexistent "T.C.A. § 29-26-121 (a)(1)(e)" and it requests fees under the nonexistent "T.C.A. § 20-5-119 (c)."

Defendant Nikhil Gopal, M.D. filed a motion and a fourteen-page memorandum with 82 pages of exhibits (including the decedent's unredacted Social Security number and date of birth) on July 20, 2026, signed by R. Kent Francis for Joseph Clark and Christina Guyton of Lewis Thomason, P.C. By footnote 1, the Gopal memorandum adopts by reference, under Rule 10.04, "the statements and arguments in the Motions to Dismiss and supporting Memoranda of Law filed by Co-Defendants."

This motion is directed to the Didyuk and Methodist attorneys and their firms. It is not directed to Dr. Gopal's counsel. Plaintiff's review of the Gopal memorandum found no fabricated authority in that filing. The Gopal filing appears in this motion for a different reason: its verified defects, including word-for-word copying of a defective Didyuk passage and a Methodist sentence refilled with a random Memphis physician's name, demonstrate how AI-slop from the first two filings can quickly propagate into a third, and then on to proposed and adopted orders of the Court: which is the mechanism this motion asks the Court to nip in the bud at the outset of this case.

Separately from this motion, Plaintiff will serve Rule 11.03(1)(a) motions on the Didyuk and Methodist signers, with the 21-day safe harbor that subdivision requires. Those motions belong to a different track: Rule 11.03(1)(a) requires them to be made separately, their safe harbor allows withdrawal, and withdrawal would moot them. This motion invokes Rule 11.03(1)(b), which has no safe harbor and asks a different question: not whether the papers will be withdrawn, but how they came to be filed.

A. Didyuk and Methodist cite authority that does not exist.

The Didyuk motion and memorandum each state: "Concurrently, Defendants also request that the Court award costs associated with obtaining this dismissal, pursuant to Tenn. Code Ann. § 20-5-119(c)." (Didyuk Mot. 2; Didyuk Mem. 2.)

The Methodist motion states: "To the extent necessary at this time, Methodist further seeks an award of attorneys' fees associated with any dismissal of this action pursuant to T.C.A. § 20-5-119 (c)." (Methodist Mot. 2.)

Title 20, Chapter 5 of the Tennessee Code contains sections 20-5-101 through 20-5-118. Section 20-5-119 does not exist, in that chapter or anywhere in the Code. One invented section, cited in three instances, by two separate firms, using the same nonexistent subsection letter, claiming the same fee award.

The Methodist's motion only stated statutory ground is that Plaintiff failed to provide HIPAA-compliant authorizations "set forth in T.C.A. § 29-26-121 (a)(1)(e)." (Methodist Mot. 1.) Subsection (a)(1) is a single undivided paragraph; it has no subdivision (e).

The Didyuk memorandum states that "the Tennessee Supreme Court has expressly rejected the argument that a defendant must inform a plaintiff of noncompliance," and cites "Id. at 559." (Didyuk Mem. 9.) The antecedent of that "Id." is *Martin*. *Martin*

occupies pages 322 through 347 of volume 600 of the South Western Reporter, Third Series; the next case in the volume begins at page 348. *Martin* has no page 559.

B. The Didyuk and Methodist Motions contain quotations that no court wrote.

The Didyuk memorandum presents the following, inside quotation marks, as the words of the Supreme Court of Tennessee:

> "[D]efendants are not required to assist plaintiffs in satisfying their burden of compliance with Tenn. Code Ann. § 29-26-121(a)(2)(E), nor are they obligated to notify plaintiffs of deficiencies in a medical authorization that lacks one or more of the six core elements necessary for HIPAA compliance." *Martin*, 600 S.W.3d at 334 (Tenn. 2020) (quoting *Stevens*, 418 S.W.3d 547, 555 (Tenn. 2013)).
> (Didyuk Mem. 9.)

That passage appears in neither opinion. The attribution is doubly impossible because the phrase "six core elements" never appears in *Stevens* at all, so *Martin* could not have been quoting *Stevens* for it. What *Martin* actually says, in its own words, quoting no one, is this:

> "Defendants have no obligation to aid plaintiffs in meeting this burden, and defendants need not notify plaintiffs that a medical authorization lacks one or more of the six core elements federal law requires for HIPAA compliance."

Set side by side, the filed passage is a rewrite of the real one: same subject, same structure, different words, presented in quotation marks.

The Methodist memorandum then builds a composite quotation and attributes it to a single page of *Stevens*:

> "'non-substantive errors and omissions' and [a] plaintiff's less-than-perfect compliance' with the statute will 'not derail a healthcare liability claim' if the medical authorization provided is 'sufficient to enable defendants to obtain and review a plaintiff's relevant medical chart.' *Id*. at 555."
> (Methodist Mem. 5.)

Stevens contains no such passage as quoted. The actual quote is as follows:

> "A plaintiff's less-than-perfect compliance with Tenn.Code Ann. § 29-26-121(a)(2)(E), however, should not derail a healthcare liability claim. Non-substantive errors and omissions will not always prejudice defendants by preventing them from obtaining a plaintiff's relevant medical records. Thus, we hold that a plaintiff must substantially comply, rather than strictly comply, with the requirements of Tenn.Code Ann. § 29-26-121(a)(2)(E)." *Stevens*, 418 S.W.3d at 555.

This is textbook generative-AI mash-up. Methodist (or Methodist's generative AI) took sentence fragments, one altered verb, and one invented noun and welded them all into a rule that sounds similar to what the court stated, and then attributed it to a page of a case that does not contain it.

C. Didyuk and Methodist invent standards no decision states.

The Defendants' memoranda present purported rules of law that no Tennessee Court has adopted.

The Methodist memorandum asserts a "presumption of prejudice" in health care liability cases three separate times: Plaintiff's noncompliance "presumptively prejudiced" Methodist (Mem. 3-4); the plaintiff bears "the burden of demonstrating substantial compliance with the statute, including overcoming the presumption of prejudice set forth above," citing "*Martin v. Rolling Hills Hospital*, 600 S.W.3d at 335" (Mem. 4); and the noncompliance was "presumptively prejudicing Methodist" (Mem. 9). The Didyuk memorandum asserts twice, without citation, that "prejudice should be presumed." (Didyuk Mem. 9-10.)

But *Martin* adopted no presumption of prejudice, at page 335 or anywhere. The phrase "presumption of prejudice" appears exactly once in the entire case, at page 330, inside the order granting review that the opinion quotes, framing the question "whether or not the Court should consider the adoption of a rebuttable presumption of prejudice

where the pre-suit notice is not accompanied by a medical authorization which is facially compliant with HIPAA."

In fact, the opinion answers that question by adopting nothing of the kind. Its holding runs the other way: "prejudice is not a separate and independent analytical element; rather, as *Stevens* explained, prejudice is a consideration relevant to determining whether a plaintiff has substantially complied." *Martin*, 600 S.W. 3d at 333. Thus the two memoranda together assert a phantom presumption five times.

D. Didyuk and Methodist assert citations that fail when compared to the authority.

The remaining defective citations share one attribute: each falls apart when compared to the source.

Both memoranda quote the threshold-requirement sentence of *Stevens* with the same operative three words, "to enable defendants" deleted. The deletion is silent in both filings. Neither Didyuk nor Methodist reveals they have deleted the operative phrase by inserting ellipses. The deleted words are the point of the sentence: the referenced authorization must empower the defendants.

The Methodist memorandum's footnote 3 cites "*Foster v. Chiles*, 523 S.W.3d 619 (2015)." That reporter citation belongs to *Bray v. Khuri*, decided in 2017. *Foster* is 467 S.W.3d 911 (Tenn. 2015). A real case bearing another case's citation, with the true owner of the citation in the same document, is not a transcription slip. It is what results when AI attempts to unravel a string-cite and no actual human opens either case.

The same footnote practice extends to other cases, and is, once again, indicative of unsupervised machine drafting. Methodist's footnote 1 cites "*Shaw for Estate of Tuttle v.*

Gross, No. W2019-01488-COA-R3-CV." The case is real; but the estate is not Tuttle's. The decedent was John Suttle, and the docket is W2019-01448. Two errors in one citation.

The Didyuk memorandum attributes to *J.A.C.* the facts of a different case: Didyuk reports that "the Court found the plaintiff's HIPAA authorization was deficient because she intentionally left portions of the authorization form blank and anticipated that the defendant medical providers would fill it in." (Didyuk Mem. 9.) That plaintiff is the plaintiff in *Roberts v. Prill*, whose admission J.A.C. recounts. ("In *Roberts v. Prill*, the plaintiff admitted that she intentionally left portions of the HIPAA form blank and anticipated that the defendant medical providers would fill it in." *J.A.C. v. Methodist Healthcare Memphis Hospitals*, 542 S.W.3d 502 (Tenn. Ct. App. 2016)).

This is, once again, a known limitation for AI. It frequently errs when an opinion discusses other cases within its own holding (which, as this Court is aware, is frequently the bulk of an appellate decision). AI cannot reliably determine which facts belong to the case it is currently reading and which belong to the case being cited inside the opinion it is reading. The resulting citation errors show up time and again within Didyuk and Methodist's Motions to Dismiss.

Both memoranda also quote *J.A.C.*'s no-duty sentence with the same altered verb: the opinion reads "The Providers owed no duty to the Plaintiffs to help them achieve this standard," and both filings render "owe," present tense, inside quotation marks. (Didyuk Mem. 9; Methodist Mem. 6.) As discussed above, this is also a known error of AI and the fact that the exact same error appears in two different firms' briefs rules out a simple human typo.

The Methodist memorandum quotes *Christie v. Baptist Memorial Hospital* twice, for the narrowness of the single-provider exception. What the memorandum does not

disclose is that *Christie*, an appeal from this courthouse, reversed the dismissal in favor of Baptist, the records-holding hospital, reasoning that "because no other records existed, Baptist could not be prejudiced by its inability to obtain any other records." Thus, the main thrust of *Christie* that would be applicable to this case (and unhelpful to these Defendants) is the part left out.

The small alterations run the same way. Methodist's quotation of Martin's savings-statute holding changes "this lawsuit" to "their [refiled] lawsuit," disclosing the bracketed insertion but not the substitution. (Methodist Mem. 8.) Its quotation of Moore-Pitts deletes "only" from "files suit against only one provider." (Methodist Mem. 8.) And the two memoranda that quote the statute's core subdivisions shorten them: Didyuk's block quote ends subdivision (E) at "from each other . . .," cutting "provider being sent a notice," and pluralizes "provider[s]"; Methodist's block quote performs the identical pluralization and the identical truncation and goes further, merging subdivisions (D) and (E) into a single composite "(D)" joined by "as well as," words the statute does not contain. (Didyuk Mem. 5; Methodist Mem. 4-5.)

Even more errors abound throughout the filing. The 120-day extension of the limitations period is contained in § 29-26-121(c). The Methodist memorandum places it in subsection (b). Again, all of these errors, particularly viewed together, are nearly determinative of unsupervised generative-AI drafting.

E. Every substantive "error" favors Didyuk and Methodist.

Across the 48 defective citations in the two firms' filings, every error that supports substantive argument (as opposed to a made-up page number) favors the Defendants. The invented statute awards fees. The invented 46-word quotation relieves defendants of obligations. The invented "generally lacking" rule lowers the movant's burden. The

phantom presumption shifts the burden to the plaintiff. The altered verbs turn "should" into "must" and "will." The omitted half of *Christie* is the half that would hurt the Defendants. Honest error is randomly scattered; these errors all favor the Defendants, as they would if drafted by sycophantic generative-AI.

F. Starnes Davis and Baker Donelson are well-aware of the consequences of their actions here as demonstrated by their own public statements.

Both respondent firms have told the public, accurately, what unverified AI output does to courts.

On June 30, 2025, over a year before its motion here, Baker Donelson published a client alert titled "The Perils of Legal Hallucinations and the Need for AI Training for Your In-House Legal Team!", co-authored by a Memphis attorney credentialed in AI governance. Its first sentence: "Generative AI is rewriting how lawyers work at record speed, but is also quietly flooding Courts with phantom citations and invented case law along the way." Its conclusion: "using AI is no longer optional, but verifying its output is non-negotiable."

Baker Donelson's embrace of generative artificial intelligence in its own legal work is not a secret; the firm touts it. The firm's artificial-intelligence page states that it "stands at the forefront of legal innovation, distinguished by our early and strategic adoption of machine learning and generative artificial intelligence technologies," that "We're not just using AI" but "redefining what it means to deliver legal services in the 21st century," that its tools "[d]raft legal documents with greater speed and accuracy" and "[c]onduct more strategic and efficient legal research," and that the firm has "integrated AI tools Firm-wide, giving our attorneys and professional staff at every level access to approved AI

solutions." Its innovation page describes it as "[a]mong the first law firms to utilize artificial intelligence for contract review and due diligence."

And in *Reaves Law Firm, PLLC v. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC*, No. 2:25-cv-02623 (W.D. Tenn. June 2, 2026), it was Baker Donelson that identified AI-fabricated filings submitted against it, briefed the fabrications, and obtained a sanctions order from the Chief Judge of the Western District of Tennessee that was circulated to every judge in that district and referred to the Board of Professional Responsibility. Forty-five days later, Baker Donelson's motion in this case was served bearing nonexistent statutes, fabricated quotations, invented standards of law, and a phantom presumption.

Starnes Davis Florie's public record is of the same kind and confirms the firm is using AI to draft legal filings specifically in medical malpractice cases such as this one. In June 2025, the firm announced its partner's ethics presentation at the 60th Alabama Defense Lawyers Association Annual Meeting, "Navigating AI in the Legal World - The Ethical Obligations of Lawyers," covering AI use in "summarizing documents and medical records, performing legal research in hours that might take days, and brief writing," in a world where "attorneys are using AI more and more," including "the duty of candor owed to courts."

The precise state of the public record is worth emphasizing: both firms publicly identified the specific risk at issue here, in advance, in print; one of them litigated and won the leading AI-fabrication sanctions matter in this State's federal courts, all before filing the papers at issue. These facts bear on notice and knowledge. They are not offered to show, and this motion does not assert, that either firm used any particular tool to draft

the filings in this case. What produced these filings is a question the proposed order puts to the signers, under oath.

III. LEGAL STANDARD

Rule 11.02 provides that by "signing, filing, submitting, or later advocating" a paper, an attorney certifies "that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances," the paper "is not being presented for any improper purpose," its "claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law," and its factual contentions have or are likely to have evidentiary support. Tenn. R. Civ. P. 11.02.

Under Rule 11.03, a party may move for sanctions, separately, with a 21-day safe harbor. Tenn. R. Civ. P. 11.03(1)(a). Or, "[o]n its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision 11.02 and directing an attorney, law firm, or party to show cause why it has not violated subdivision 11.02 with respect thereto." Tenn. R. Civ. P. 11.03(1)(b).

This motion seeks the second path. The threshold for that second path is conduct that "appears to violate" Rule 11.02. Sanctions, if any ever issue, are "limited to what is sufficient to deter repetition," monetary sanctions may not be awarded against a represented party for legal-contention violations, Tenn. R. Civ. P. 11.03(2)(a), and monetary sanctions on the Court's initiative require that the show-cause order issue "before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned," Tenn. R. Civ. P. 11.03(2)(b). Any

sanction order must "describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed." Tenn. R. Civ. P. 11.03(3).

The test under Rule 11 "is one of objective reasonableness under all the circumstances." *Andrews v. Bible*, 812 S.W.2d 284, 288 (Tenn. 1991). *Andrews* adopted the checklist that answers most of what this motion presents: "An attorney must READ every paper before signing it," he "must make a reasonable prefiling investigation of the FACTS," he "must research the LAW, unless he is certain he knows it," and "[a] pure heart but an empty head is of no avail." *Id.* (quoting *Whittington v. Ohio River Co.*, 115 F.R.D. 201 (E.D. Ky. 1987)) (capitalization in original).

Independent of Rule 11, "the courts of this state have, under the inherent power to supervise and control their own proceedings, the authority to sanction attorneys, but only for pursuing matters in bad faith or conducting themselves in a reckless manner," *Andrews*, 812 S.W.2d at 291. A person acts recklessly "when the person is aware of, but consciously disregards, a substantial and unjustifiable risk of such a nature that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances," *Hodges v. S.C. Toof & Co.*, 833 S.W.2d 896, 901 (Tenn. 1992). It may be that, given their extensive public proclamations on the use of AI in the practice of law, the lawyers and law firms acted with a conscious disregard of its known risks.

IV. ARGUMENT

Rule 11.02 makes every signature on a filing a personal certification to the Court that the paper's legal contentions are "warranted by existing law," formed "after an inquiry reasonable under the circumstances." Tenn. R. Civ. P. 11.02. The certification is personal by design: "The purpose of Rule 11 as a whole is to bring home to the individual

signer his personal, nondelegable responsibility," an obligation that "is not a team effort but in the last analysis, yours alone." *Andrews*, 812 S.W.2d at 288. The final responsibility rests with the signer because courts rule on the law as counsel presents it, and no judge can re-run counsel's research for every filing.

A false certification injures the Court itself. "Baseless filing puts the machinery of justice in motion, burdening courts and individuals alike with needless inconvenience, expense, and delay," *Andrews*, 812 S.W.2d at 292, and when the burden goes unnoticed the falsehood passes into an order and speaks as the Court.

A. Every ruling this Court makes rests on counsel's representations about the law, and those representations reach into the Court's own orders.

Courts run on the premise that lawyers and law firms are candid, honest, and accurate when they cite authority in support of their positions. As the Sixth Circuit stated this spring when it sanctioned two Tennessee lawyers for fabricated citations and misrepresentations, the integrity of proceedings depends on the premise that "lawyers and courts alike are able to rely on one another's representations." *Whiting v. City of Athens* (6th Cir. Mar. 13, 2026) citing *Azar v. Garza*, 584 U.S. 726, 730 (2018). No judge has the hours to pull and read every authority in every brief. In *Whiting*, counsel's unreliable filings "forced the court to individually verify every single citation," and the panel counted that burden in setting the sanction. The certification required by Rule 11 exists so that courts are not forced to do that.

In Tennessee trial practice, the reliance goes one step further: prevailing counsel routinely draft the orders that courts sign. The Supreme Court has approved the practice within limits, in a Shelby County case: "it is permissible and indeed sometimes desirable

for the trial court to permit counsel for any party to submit proposed findings and conclusions…". *Smith v. UHS of Lakeside, Inc.*, 439 S.W.3d 303 (Tenn. 2014).

Thus, the path from a defective brief to a defective order is short and ordinary: the briefing's authorities go into the proposed order, and the proposed order, once signed, speaks as the Court. From there it circulates: it is cited back to the same court and to other courts as authority, and it enters the published record on which lawyers, and the research tools lawyers increasingly use, rely.

This record in this case already shows how that cycle runs. On July 16, one firm filed an invented prejudice rule from the *Lawson* case. On July 17, a second firm filed the same invented sentence, word for word, as settled law. On July 20, a third firm's memorandum reproduced a defective passage from the first filing character for character and adopted both earlier filings by reference. Copying without reading is how one error becomes three filings. An order is the next stop. And here, there is every indication that this type of misconduct will proliferate, in this very case, if the Court does not step in to put a stop to it now while these fabricated authorities are still confined to Defense Counsel's motions and not in any paper bearing this Court's signature.

B. The conduct described appears to violate Rule 11.02, which is the only threshold Rule 11.03(1)(b) sets.

Rule 11.03(1)(b) asks whether specific conduct "appears to violate" Rule 11.02's certification, made "after an inquiry reasonable under the circumstances." The answer here is an unqualified yes. This motion and the review by undersigned counsel of Defendants' citations constitute a reasonable, indeed, thorough, inquiry. The Defendants' submission of invented, fabricated, and mischaracterized authority to this Court as real

(and further seek dismissal of this case on that bogus authority) represents conduct that appears to violate Rule 11.02.

These Defendants made three requests to this Court for money under a statute that does not exist; they presented a motion they state is based on a subdivision that is not in the statute; and they cite pages that are not in the opinions they name. These errors cannot occur where Defense Counsel has done the bare minimum of reading the very authority they present to the court.

Quotations that no court wrote also fail the Rule 11 certification. The invented 46-word passage attributed to *Martin* and the mash-up quote ending with "relevant medical chart" attributed to *Stevens* could have each been dispelled by reading the single page cited for them. The same is true of the other misquotes inventoried above.

Invented standards presented as law are not "warranted by existing law" in any sense of Rule 11.02(2), and the Defendants do not present their positions as good faith argument for extending the law; but rather each is falsely presented as what the law already is. This is violative of Rule 11 as well.

C. Two explanations fit the record; the Court need not choose between them because both require sworn answers.

There are two possible explanations for Defendants' submissions. The first explanation is that these filings contain the output of unsupervised and unreviewed generative-AI. Certainly the fabrications and defects discussed above carry all the signatures of AI documented in reported decisions: authority invented with a plausible-looking number in a plausible-looking place (a fee provision one section past the end of a real chapter; a subdivision spliced from two real ones); quotations in a court's cadence the court never wrote; standards phrased in the idiom of real doctrine; a real case bearing

another real case's reporter citation; the same invented text surfacing in two firms' filings a day apart; quotation defects inherited through chains of copying in which no one opened the original; and errors that uniformly favor the filer.

Moreover, this is a known and, regrettably, exploding problem in the practice of law, with the Sixth Circuit, the Western District of Tennessee, and the Tennessee Court of Appeals each having confronted its consequences in the past eighteen months. *See, e.g., Whiting*, slip op.; *United States v. Farris*, No. 25-5623 (6th Cir. Apr. 3, 2026) (published); *Reaves*, No. 2:25-cv-02623 (W.D. Tenn. June 2, 2026).

The second explanation is that lawyers fabricated authority and quotations knowingly. Nothing in this motion asserts that, Plaintiff's Counsel does not believe that is what occurred, nor does Plaintiff believe the record reflects it. The first explanation is the more probable reading of the documented pattern. But the second cannot be excluded without hearing from the drafters.

Whether the fabrications were intentional or the result of unsupervised AI dictates only the consequences, not whether the Show Cause Order should be entered. If the origin was unverified machine output, the certification was signed without the reasonable inquiry Rule 11.02 requires, and the response to being caught becomes the determining factor. Indeed, all of the reported cases significantly weigh any sanctions against candor with attorneys who promptly explain and take responsibility for their actions rarely facing any punitive measure.

D. The Court should enter the Show Cause Order now.

This is case is at its outset. These are the first substantive defense filings. The fabrications included in the Didyuk and Methodist filings have not yet been argued at a hearing, incorporated into a proposed order, or relied on in a ruling. Entry now protects

every later stage. The record and the public statements of both the Starnes Davis and Baker Donelson firms confirm that they are using, and will, in all likelihood, continue to use, in this case, generative AI for their research and filings. The guardrails for that use, and its consequences on Plaintiff (whose Counsel has spent an enormous amount of time verifying opposing counsel's citations) and the Court, should be clearly set forth now.

The proposed order is calibrated to fairness. It describes the conduct with the particularity Rule 11.03(3) contemplates. It directs answers under oath within 21 days, on a verification protocol this district's federal court has already used in *Reaves*. It requires production of drafts and identification of resources, sets an evidentiary hearing, and reserves every question of consequence for after the answers. It draws no inference about origin, states that no sanction against any represented party is contemplated, and adjudicates nothing.

At this stage it is up to Defense Counsel to fully and forthrightly account for the conduct described above.

V. CONCLUSION

The Court is respectfully requested to enter the attached Order to Show Cause directed to Alan S. Bean, Michael T. Scivley, and Kalen S. Early and the firm Starnes Davis Florie LLP, and to Buckner Wellford, James McColgan, and Alex Hall and the firm Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.; to direct sworn written responses within 21 days of entry; to set an evidentiary hearing; to direct the disclosures described in the proposed order; and to reserve all further measures. No relief is sought against any Defendant, and the proposed order so states.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2026, a true and correct copy of the foregoing was served via electronic mail upon the following counsel of record:

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